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PANAMA CANAL COMMISSION EMPLOYEES' COMMISSARY PRIVILEGES

OCTOBER 26, 1989.—Ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 2612, which on June 13, 1989 was referred jointly to the Committees on Armed Services and Merchant Marine and Fisheries]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 2612) to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store located in Panama which is operated by any military department of the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 2612 is to grant to employees of the Panama Canal Commission who are United States citizens the right to temporarily use the American military commissaries located in Panama.

The Merchant Marine and Fisheries Committee has jurisdiction over the operations of the Panama Canal and the laws that implement the Panama Canal Treaty of 1977 (the Treaty). A primary objective of the Committee is ensuring that the Canal is maintained and operated at optimum levels. To assure the uninterrupted and efficient operation of the Canal, as required by Article I of the Treaty, it is necessary to maintain an employee work force that is skilled, efficient, reliable, and safe. H.R. 2612 seeks to assure the safety of the Panama Canal Commission employees by providing a secure area for the United States citizen employees of the Panama Canal Commission to buy their food and basic household supplies.

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BACKGROUND

Prior to the 1977 Treaty, the Panama Canal Company operated its own grocery and department stores for the employees of the Panama Canal. The Treaty prohibited the newly created Panama Canal Commission (PCC) from operating its own stores. The reason for this Treaty provision was Panama's insistence that the PCC employees contribute to the economy of Panama by shopping in Panamanian stores. Eight thousand employees of the PCC would be able to contribute substantially to the Panamanian economy.

The "shopping" issue became one of the more emotional issues during the Treaty negotiations. The compromise reached was to end the commercial activities of the Canal Company and to allow the PCC employees to use the United States military commissaries in Panama for five years after the Treaty was in force (Article XIII, Agreement in Implementation of Article III of the Panama Canal Treaty of 1977). After October 1984, the commissary privileges for the PCC employees ended, and the employees were then integrated into the Panamanian economy through the Panamanian stores.

Beginning in June 1987 demonstrations erupted in Panama over the abusive rule of General Manuel Noriega. Later in the same year General Noriega was indicted in the United States on drug charges. In the spring of 1988, one of Noriega's key assistants, Jose Blandon, testified before the United States Senate that Noriega was involved wiht the Colombian drug cartel in trafficking drugs to the United States. Once again the Panamanians opposed to Noriega organized demonstrations and strikes against his control over Panama. The political turmoil escalated, the tension between the United States and Noriega's supporters intensified, and the U.S. citizen employees of the PCC became targets of harassment by Noriega's Panamanian Defense Forces [PDF]. Concerned about the danger to the PCC employees, the Committee on Merchant Marine and Fisheries drafted legislation that authorized U.S. citizen employees of the PCC to use the U.S. military commissaries in Panama, where it was safe to buy food and supplies. The bill, H.R. 4256, passed the House under unanimous consent on March 30, 1988. At the request of the State Department, the Senate did not act on H.R. 4256. Instead, the United States Government arranged for American PCC employees to have access to military shopettes, facilities similar to convenience stores.

On May 7, 1989, Guillermo Endara was elected President of Panama, but General Noriega forcefully declared those elections null and void. Demonstrations and violence erupted in Panama, and the PCC employees again urgently requested that Congress assist them in obtaining commissary privileges.

On Tuesday, October 3d, a few hundred members of the Panamanian Defense Forces [PDF] led by Major Moises Giroldi staged a coup d'etat and seized Panamanian strongman Manuel Noriega at his military headquarters in Panama City. While the coup was unsuccessful, U.S. military personnel and American civilians in the Republic of Panama, which are mostly comprised of Panama Canal Commission employees and their families, are still living in a state of siege. The entire Canal Zone area was declared under a "Char-

lie" alert which means that Americans should severely limit their travel within Panama City and/or Colon between their residence and work site and for emergency personal business. To the extent possible, any emergency business should be conducted during daylight hours only and extreme caution should be exercised in selecting travel routes to required destinations.

PCC employees and their dependents are the overwhelmingly majority of Americans still living outside of U.S. military installations in Panama. The emergency conditions add to the need for temporary utilization of the U.S. military commissary facilities in the Republic of Panama.

COMMITTEE ACTION

On May 18, 1989, the Subcommittee on Panama Canal/Outer Continental Shelf, chaired by the Honorable Roy Dyson, held a hearing on the conditions under which PCC employees now live in Panama under General Noriega's defacto rule. Employee witnesses and union representatives testified that it was still unsafe to shop in the public markets of Panama and that the military shopettes available to PCC employees were insufficiently supplied with basic necessities.

On June 7, the Honorable Walter B. Jones introduced legislation, H.R. 2612, nearly identical to H.R. 4256 of the 100th Congress, to authorize for U.S. citizen employees of the PCC use of the military commissaries and exchange located in Panama on a temporary basis.

On June 21, 1989, after discharging the bill from the Subcommittee on Panama Canal/Outer Continental Shelf, the Committee on Merchant Marine and Fisheries ordered H.R. 2612, reported favorably to the House by voice vote.

On July 13th, the Committee on Armed Services approved H.R. 2612, and Chairman Lee Aspin sent a letter of support for H.R. 2612 to Chairman Jones. (see appendix)

On July 21, the Committee on Merchant Marine and Fisheries added H.R. 2612 to its reconciliation legislation, which included several other provisions dealing with the Panama Canal Commission, one of which added funds to the General Treasury.

SECTION-BY-SECTION

Section 1—Findings

The bill includes Congressional findings, as follows:

(1) innocent persons in public areas of Panama have been harassed by the Panamanian Defense Forces thereby adversely affecting their mobility and safety in public areas of Panama; and

(2) President Bush declared Panama unsafe for Americans, after the election fraud in Panama on May 7, 1989, and the political unrest caused by General Noriega after the election has hindered the ability of employees to shop in safety for food in public areas of Panama; and

(3) the operation of the Panama Canal is jeopardized when its employees cannot safely purchase food and other goods; and

(4) the Treaty requires the United States and the Republic of Panama to efficiently and without interruption operate the

Panama Canal, which is hindered if the employees cannot safely purchase food.

The findings of Congress make clear that the overriding objective of the Treaty is the efficient operation of the Canal and that the safety of the employees and their ability to safely purchase food is inherently essential to the efficient and uninterrupted operation of the Canal.

Section 2—Commissary and Exchange Privileges

Section 2 of the bill authorizes the U.S. citizen employees of the PCC to purchase food and any other goods at any commissary or exchange store located in Panama and operated by any department of the U.S. military. This section provides that any U.S. military facility in Panama that supplies food or goods is to be available to the U.S. citizen employees of the PCC.

Section 3—Termination of Authority

Section 3 of the bill allows for the termination of the commissary privileges to the U.S. PCC employees if the President finds that the PDF has ceased to harass persons in public areas of Panama and that food and goods are accessible safely to the PCC employees so that the Canal is no longer jeopardized. When the President certifies these findings to Congress, the privileges may be terminated by the President ninety days after the certification. The privileges may also be terminated on the date on which Executive Order Numbered 12635 is terminated.

COST OF LEGISLATION

Pursuant to clause 7 of rule XIII of the rules of the House of Representatives, the Committee estimates no outlays from this legislation.

COMPLIANCE WITH CLAUSE 2(l)(3) OF RULE XI

In compliance with clause 2(l)(3) of rule XI of the House of Representatives.

(A) in the consideration of H.R. 2612 the Committee made no new oversight findings and recommendations within the meaning of clause 2(b)(1) of rule X;

(B) the requirements of H.R. 2612 contain no new budget authority or increased tax expenditures reportable under Section 308(a) of the Congressional Budget Act of 1974;

(C) the Committee on Government Operations has sent no report to the Committee on Merchant Marine and Fisheries pursuant to clause 4(c)(2) of rule X, and;

(D) the estimate and comparison prepared by the Director of the Congressional Budget Office under Section 403 of the Congressional Budget Act of 1974 is set out below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 24, 1989.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2612, a bill to provide temporary authority to certain employees of the Panama Canal Commission to purchase food and other goods at any commissary or exchange store located in Panama that is operated by any military department of the United States. The bill was ordered reported by the House Committee on Merchant Marine and Fisheries on June 21, 1989. Enactment of this bill would result in no significant cost to the federal government and in no cost to state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

CHANGES IN EXISTING LAW

If enacted this bill would not make any changes in existing laws.

DEPARTMENTAL REPORTS

H.R. 2612 was referred to the Department of Defense and the Panama Canal Commission. No reports on this bill were received.

APPENDIX

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 17, 1989.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries, Longworth House Office Building, Washington, DC.

DEAR WALTER: This is in reply to your July 10 letter requesting support for H.R. 2612.

I am pleased to inform you that the Armed Services Committee approved this bill on July 13. The committee shares your concern for the welfare of our citizens in Panama. We look forward to cooperating with you as we move toward passage of this important legislation.

Sincerely,

LES ASPIN, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC. July 10, 1989.

Hon. LES ASPIN,
Chairman, Armed Services Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: H.R. 2612 was ordered reported from the Merchant Marine and Fisheries Committee by voice vote on June 21, 1989. You may recall that last year a nearly identical bill, H.R. 4256, was called up in the House by unanimous consent and passed the House by voice vote on March 30, 1988.

As was previously done with H.R. 4256 in the 100th Congress, H.R. 2612 was jointly referred to the Committees on Armed Services and Merchant Marine and Fisheries. Last year, your Committee agreed to the Merchant Marine and Fisheries Committee's request to discharge Committee action and take the bill directly to the Floor. Attached is this year's bill, a copy of last year's bill, the floor debate on H.R. 4256, and the Committee's markup advisory on the bill.

A hearing was held on May 18 this year before the Subcommittee on Panama Canal/Outer Continental Shelf concerning the problems the Commission employees continues to suffer due to the political turmoil in Panama. Unfortunately, last year the Senate did not act upon the bill, H.R. 4256. The Panama Canal Commission employees were given shopette privileges which the Senate believed would be satisfactory. Our hearings and communications

with the Panama Canal Commission employees and the Panama Canal Commission have confirmed that the shopettes (similar to 7–11's) are not adequate.

Due to the safety considerations for the Commission employees and the need to obtain adequate food and supplies, I respectfully request your agreement once again to allow the Merchant Marine and Fisheries Committee, which has jurisdiction over the operations of the Panama Canal, to take this bill to the floor for speedy action. My counsel on this matter is Ms. Cher Brooks at 6–3500. Thank you for your consideration of this request.

Sincerely,

WALTER B. JONES, *Chairman.*

Attachments.

INCIDENTS OF HARASSMENT AGAINST THE PANAMA CANAL COMMISSION AND ITS EMPLOYEES

Date	Nature of incident
7/87 to 6/88	During this period, there were numerous undocumented instances of obstruction to the free movement of personnel and vehicular traffic, due to civil disturbances and general targeting of PCC employees for alleged political activities.
1/19/88	Panama rejects PCC suggestion to accomplish badly needed repairs on the Forest Preserve Road by offsetting the corresponding cost against the payments due Panama under the treaty, and threatens to stop any attempt by PCC to effect such repairs.
3/14/88	Intruders illegally invade 10 Commission-administered housing units in Margarita. Despite repeated requests for PDF assistance in removing these squatters, they still remain in those quarters.
3/23/88	Two PCC employees (Marohl, Sheppard) detained, threatened and beaten by PDF in Chorrera and charged with "attempts against the security of the state". (Employees on free time were purchasing food items for distribution to the needy).
3/24/88	PDF stopped and searched Official Vehicle PCC–7199 with driver and three Canal pilots at Gaillard Highway and Madden Road.
3/26/88	PDF stopped and searched Official Vehicle PCC–7206 with operator and two Canal pilots at Gaillard Highway and Madden Road.
3/29/88	PDF stopped and searched Official Vehicle PCC–7205 with driver and two Canal pilots at Gaillard Highway and Madden Road.
3/29/88	PDF stopped and searched Official Vehicle PCC–7195 with driver and two two Canal pilots on Transisthmian Highway and Madden Road. PDF personnel attempted to force open the locked equipment box in the trunk.
3/30/88	PDF stopped Official Vehicle PCC–8085 at Kennedy Avenue and Automobile Road. A revolver was drawn and pointed toward driver by PDF agent in plain clothes.
4/6/88	PDF stopped official vehicle with driver and one passenger (Panama Canal pilot) at Sabanitas check point. Vehicle and personal belongings were searched.
4/7/88	PDF stopped official vehicle with driver and one passenger (Panama Canal pilot) at the Sabanitas check point, and vehicle and personal belongings were searched.
4/7/88	PDF stopped official vehicle at Sabanitas check point. Vehicle and personal belongings were searched.
4/13/88	Panama objects to the PCC making food boxes available to Canal agency employees and threatens to confiscate boxes distributed.
4/24/88 to 4/26/88	PDF places house of U.S. citizen PCC employee (Ramirez) under surveillance, prohibiting entrance of visitors. PDF officials awakened residents at 1:30 a.m. and searched house on basis of search warrant. On occasions when employee left the house, she was followed by PDF personnel. Actions resulted in Panamanian spouse having to flee country.
4/26/88	Dependent spouse of U.S. citizen Commission employee (Rudy) drove to aforementioned house under surveillance and took photographs of quarters and PDF unit nearby. Upon being hailed by PDF unit, dependent drove off quickly but was followed by PDF personnel. Dependent took refuge in nearby friend's house which was subsequently put under surveillance. Ultimately, dependent was asked to surrender film due to sensitive nature of case, to which she complied.
4/26/88	The Panamanian dependent of a U.S. citizen PCC employee (Marquez) was arrested in the vicinity of his home in a PCC townsite, jailed and held for "attempts against the security of the State." Required notice of detention not given to PCC or USG. Transfer of Custody request not honored; finally released on bail May 4, 1988.

INCIDENTS OF HARASSMENT AGAINST THE PANAMA CANAL COMMISSION AND ITS EMPLOYEES—Continued

Date	Nature of incident
4/29/88	PCC Panamanian employee detained in Carcel Modelo as a result of involvement in political demonstration (Ricardo Gutierrez).
5/16/88	Dependent spouse (Gordon) while returning to quarters from U.S. military shoppette at Fort Espinar was stopped by Panamanian Customs officials and vehicle was searched. Groceries purchased at the shoppette were confiscated and dependent was required to accompany officials ot Customs Office in Cristobal. In addition to confiscation of personal property, dependent was required to pay fine.
5/16/88	Dependent spouse (Kennedy) while returning to quarters from U.S. military shoppette at Albrook Air Force Station was stopped by Panamanian Customs officials and vehicle was searched. Groceries purchased at shoppette were confiscated and dependent was required to accompany officials to Customs Office at Curundu. In addition to confiscation of personal property, dependent was assessed fine.
5/17/88	Dependent (Keith) of employee while returning to quarters from U.S. military shoppette was stopped by Panamanian Customs officials and vehicle was searched. Customs officials confiscated groceries purchased at shoppette and required dependent to accompany them to Customs Office at Cristobal. In addition to confiscation of personal property, dependent was assessed fine.
5/18/88	Commission employee and spouse (Thompsons) while returning to quarters from U.S. military shoppette at Fort Espinar were stopped by Panamanian Customs officials who searched interior of vehicle and confiscated groceries purchased at shoppette. Employee and spouse were required to accompany Panamanian officials to Customs Office at Cristobal. In addition to confiscation of personal property, employee was required to pay fine.
5/23/88	Commission employee (Robert Geddes) while returning to his quarters from the U.S. military shoppette at Fort Espinar was stopped by Panamanian Customs officials who confiscated groceries purchased at the shoppette. Employee was required to accompany the Panamanian officials to the Customs Office in Cristobal. In addition to the confiscation of property, employee was required to pay fine.
6/6/88	U.S. citizen employee on Sunday drove in Smithsonian Institute jeep to area near Cerro Azul to perform maintenance on a radio antenna, property of the Smithsionian. PDF arrived at the scene, accused him of having intent to sabotage PDF equipment in area, and detained him for several hours at a PDF facility.
6/9/88	Panama threatens that its customs inspectors will raid the quarters of PCC employees suspected of having merchandise "illegally" purchased in military shoppettes. (Although no houses were entered, several employees and dependents in their vehicles were stopped, goods confiscated, and fines imposed as identified in sections above.)
6/17/88	Two U.S. citizen Commission employees while riding in a four-wheel jeep on a back road on the West Bank area of the Canal were stopped by PDF personnel and informed that a permit was required to be in that area. They were required to accompany the PDF personnel to PDF facilities and were detained for about ten hours.
6/30/88	Panama advises that it will stop providing medical care to PCC beneficiaries of Panamana's Social Security System effective June 30 unless withheld employer and employee contributions are paid.
7/4/88	PDF stopped and searched five transisthmian official vehicles carrying pilots at the Sabanitas check-point.
8/16/88	Panama advises that it has decided to provide public services on a "lesser scale" with the exception of fire and police protection which will continue to be provided in the same manner as earlier in the treaty period. As a consequence, frequency of garbage collection in PCC areas reduced from the normal three times per week to twice weekly.
9/15/88	Panama advises that it will not allow public services to be provided by agencies other than those of the Panamanian government and, subsequently, threatens to confiscate PCC equipment and arrest PCC employees engaging in any such effort.
9/20/88	PDF stopped and searched official vehicle PCC–7204 at Madden "Y" on Transisthmian Highway.
9/26/88	Panama's Municipal Garbage Collecton Department reduces refuse collection service in Canal area to a one-day-per-week schedule.
10/20/88	PDF stopped Official Vehicle PCC–7226 at Madden "Y" on Transisthmian Highway. Operator's license was checked.
10/25/88	PCC driver stopped on Gaillard Highway for allegedly operating an "oversized" vehicle and was told by Transito officer that the vehicle was not allowed on that stretch of road.

INCIDENTS OF HARASSMENT AGAINST THE PANAMA CANAL COMMISSION AND ITS EMPLOYEES—Continued

Date	Nature of incident
12/16/88 to 12/20/88	Fernando Manfredo, Deputy Administrator, is formally summoned to appear before the revenue authorities by public notice published for five consecutive days in a local newspaper to face executory action for collection of taxes.
12/16/88 to 12/20/88	Notice published in local newspaper for five consecutive days summoning 9 other Commission employees to appear before the Internal Revenue Service of the Ministry of Finance and Treasury in connection with actions to collect income tax and education insurance tax.
12/22/88 to 12/24/88	Notice published in local newspaper for three consecutive days summoning 11 Commission employees to appear before the Internal Revenue Service of the Ministry of Finance and Treasury in connection with actions to collect income tax and education insurance tax.
1/18/89 to 1/20/89	Notice published in local newspaper for three consecutive days summoning three Commission employees to appear before the Internal Revenue Service of the Ministry of Finance and Treasury in connection with actions to collect income tax and education insurance tax.
1/24/89 to 2/9/89	Panamanian authorities refuse (without explanation) to issue 1989 vehicle inspecton decals to U.S. citizens employees of PCC/U.S. Forces.
1/30/89	Notice published in local newspaper summoning 12 Commission employees to appear before the Internal Revenue Service of the Ministry of Finance and Treasury in connection with actions to collect income tax and education insurance tax.
2/20/89	Placing of Panamanian employees' income tax and educational insurance in escrow causes Panamanian authorities to issue a decree imposing a new requirement for a national tax clearance certificate (unobtainable) in order to obtain 1989 license plates.
2/13/89	The Panama Revenue Office orders the seizure of monies held in checking and all other accounts of Fernando Manfredo, Deputy Administrator.
2/24/89	The Panama Revenue Office orders the seizure of monies held in checking and all other accounts of George Mercier, Personnel Director.
2/24/89	The Panama Revenue Office orders the seizure of monies held in checking and all other accounts of Abraham Espino, Chief Accountant.
2/27/89	PDF stopped and searched Official PCC–7222 at Madden "Y" on Transisthmian Highway.
3/9/89	PDF detains a number of U.S. Navy contract school buses for failure to have 1989 Panama license plates. Some dependent children of PCC employees were in several of the buses at the time of the incident.
3/10/89	Personal vehicles of Ricardo Varela, Associate Personnel Director, are seized by revenue office officials.
3/10/89	Since 10/1/88, total of 16 bomb threats directed at PCC facilities disrupted various aspects of Canal operations for periods ranging from 1 to 3 hours.
3/14/89	Personal vehicle of Jose Melgar, Acting Chief of Division of Admeasurement, is seized by revenue office officials.
3/15/89	Personal vehicle of Roger Toledano, Chief of Maintenance Division, is seized by revenue office officials.
3/11/89	PCC pilot detained upon arrival at Torrijos Airport, held incomunicado and interrogated for 22 hours by PDF officers. No crime alleged nor charges filed. Neither PCC nor Embassy notified of detention.
3/31/89	Personal vehicle of George Mercier, Personnel Director, is seized by revenue office officials.
3/31/89	Personal vehicle of Arthur Davis, Commission employee, is seized by revenue office officials.
5/1/88 to 1/31/89	Commission units reported more than 80 incidents of theft of supplies and equipment with an estimated value in excess of $118,000. Of special concern is the theft of buoys and lights, solar panels and batteries from navigational aids which directly threaten the safe operation of the waterway. Residents of Commission housing areas reported some 170 incidents of theft of personal property, including 17 cases of theft of privately-owned vehicles. It is believed that this increase of crime in Commission operating and housing areas is due, in part, to a deterioration in the level of security provided by the Panama Defense Forces.

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